



Ohio Revised Code

Section 5924.506 Finding of not guilty by reason of insanity; hearing.

Effective: April 6, 2023

Legislation: House Bill 281

(A) If an accused person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a person with a mental illness subject to hospitalization by court order. Prior to the hearing, if the military judge believes that there is probable cause that the person found not guilty by reason of insanity is a person with a mental illness subject to hospitalization by court order, the military judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a person with a mental illness subject to hospitalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend a hearing conducted pursuant to this section. At the hearing, the court shall inform the person that the person has all of the following rights:

- (1) The right to be represented by defense counsel or to retain civilian counsel, if the person so chooses;
- (2) The right to have independent expert evaluation;



- (3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;
- (4) The right to testify in the person's own behalf and to not be compelled to testify;
- (5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.
- (D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with regulations prescribed by the adjutant general. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.
- (E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a person with a mental illness subject to hospitalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.
- (F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a person with a mental illness subject to hospitalization by court order, it shall commit the person to the department of mental health and addiction services for placement in a hospital, facility, or services provider as determined clinically appropriate by the department of mental health and addiction services. Further proceedings shall be in accordance with Chapter 5122. or 5123. of the Revised Code. In committing the accused to the department of mental health and addiction services, the court shall specify the least restrictive limitations on the accused's freedom of movement determined to be necessary to protect public safety.



(G) If a court makes a commitment of a person under division (F) of this section, the trial counsel shall send to the hospital, facility, or services provider where the defendant is placed by the department of mental health and addiction services or to the accused's place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant investigative reports, and copies of any prior arrest and conviction records that pertain to the person and that the trial counsel possesses. The trial counsel shall send the reports of the person's current mental condition in every case of commitment, and, unless the trial counsel determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the trial counsel also shall send the other relevant information.

(H) A person who is committed pursuant to this section shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to sections 5122.02 and 5122.15 of the Revised Code.